



February 19, 2003

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## SENATE BILL No. 328

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DIGEST OF SB 328 (Updated February 17, 2003 2:34 PM - DI 75)

**Citations Affected:** IC 4-4; noncode.

**Synopsis:** Funding of development in distressed counties. Authorizes the use of state tax revenue that exceeds a base allocation amount to be used for payments of bonds issued, loans entered into, or leases entered into for an industrial development project in a distressed area.

**Effective:** July 1, 2003.

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**Skillman, Hershman, Ford, Jackman,  
Dembowski, Broden**

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January 15, 2003, read first time and referred to Committee on Economic Development and Technology.  
February 18, 2003, amended, reported favorably — Do Pass; reassigned to Committee on Finance.

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SB 328—LS 7447/DI 51+



February 19, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 328

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-4-10.9-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The definitions in  
3 this chapter apply throughout this chapter, ~~and~~ IC 4-4-11, ~~and~~  
4 **IC 4-4-31.**

5 SECTION 2. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA  
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Covered taxes" refers to**  
8 **any of the following:**

9 **(1) The state gross retail tax imposed under IC 6-2.5-2-1 or**  
10 **the use tax imposed under IC 6-2.5-3-2.**

11 **(2) An adjusted gross income tax imposed under IC 6-3-2-1.**

12 SECTION 3. IC 4-4-10.9-6.1 IS ADDED TO THE INDIANA  
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. "Distressed area" means a**  
15 **county in which:**

16 **(1) the average annualized unemployment rate in each of the**  
17 **two (2) calendar years immediately preceding the current**

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calendar year exceeded the statewide average annualized unemployment rate for each of the same calendar years by at least two percent (2%); or

(2) the average annualized unemployment rate in the immediately preceding calendar year was at least double the statewide average annualized unemployment rate for the same period;

as determined by the department of workforce development and published in the report required by IC 4-4-31-1.

SECTION 4. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 31. Funding of Industrial Development Projects in Distressed Counties**

**Sec. 1.** After June 30 and before July 15 of each year, the department of workforce development shall provide the authority with a list of the counties that qualify as distressed areas as of the date of the report. A copy of the list shall also be distributed to the department of commerce for use under IC 4-4-20.

**Sec. 2. (a)** The authority may adopt a resolution designating an industrial development project as a tax allocation project if the industrial development project is located in an area that is designated in the latest report issued under section 1 of this chapter as a distressed area. The authority shall designate in the resolution the boundaries of the tax allocation project area. The resolution designating a tax allocation project must provide for:

(1) allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax allocation project area to an industrial development project area fund established for the industrial development project;

(2) use of money in the industrial development project area fund solely for payments related to bonds, loans, or leases issued under this article to pay for the costs of the project; and

(3) termination of the industrial development project area fund upon payment of all obligations described in subdivision

(2).

(b) A resolution adopted under this section may not apply to an industrial development project that will result in the loss of employment in any part of Indiana.

(c) The authority shall incorporate the resolution adopted under this section into the financing agreement entered into between the



1 developer of the industrial development project and the authority.

2 **Sec. 3. A resolution adopted under section 2 of this chapter**  
 3 **authorizes the allocation of the following covered taxes (in excess**  
 4 **of the base allocation amount) to the industrial development**  
 5 **project area fund for an industrial development project:**

6 (1) Covered taxes incurred by a developer as a consequence  
 7 of the development of the industrial development project,  
 8 including gross retail taxes otherwise collectible by a retail  
 9 merchant on goods or services provided to the developer for  
 10 the industrial development project.

11 (2) Covered taxes that:

12 (A) are incurred by an individual or entity that leases,  
 13 controls, uses, or operates in; and

14 (B) are attributable to a taxable event related to or earned  
 15 through lease, control, use, or operations in;  
 16 facilities developed through an industrial development  
 17 project, including gross retail taxes otherwise collectible by a  
 18 retail merchant on goods or services provided to the  
 19 individual or entity.

20 (3) Covered taxes that:

21 (A) are incurred by an individual or entity that is a  
 22 partner, shareholder, or member of an entity that leases,  
 23 controls, uses, or operates in; and

24 (B) are attributable to a taxable event related to or earned  
 25 through lease, control, use, or operations in;  
 26 facilities developed through an industrial development  
 27 project.

28 (4) Four percent (4%) of covered taxes on wages or other  
 29 compensation earned by persons employed or providing  
 30 services at facilities financed through an industrial  
 31 development project, including services related to the  
 32 construction, reconstruction, improvement, or repair of the  
 33 facilities.

34 **Sec. 4. The authority shall provide the department of state**  
 35 **revenue and the auditor of state with a copy of any resolution**  
 36 **adopted under section 2 of this chapter and the related financing**  
 37 **agreement. Upon receipt of a copy of the resolution and the related**  
 38 **financing agreement:**

39 (1) the auditor of state shall establish an industrial  
 40 development project area fund for the industrial development  
 41 project;

42 (2) the department of state revenue shall compute the base



allocation amount for the industrial development project area;

(3) the department of state revenue shall annually deposit the covered taxes subject to the resolution (to the extent that the amount exceeds the base allocation amount) in the industrial development project area fund for the industrial development project; and

(4) the auditor of state shall make payments from the industrial development project area fund in accordance with the resolution and the financing agreement for the industrial development project.

**Sec. 5.** The department of state revenue shall estimate the base allocation amount for the data available to the department and any other data supplied by the authority. The base allocation amount is equal to the amount of covered taxes deposited from taxable events occurring in the tax allocation project area in the calendar year immediately preceding the calendar year in which the resolution is adopted under section 2 of this chapter.

**Sec. 6.** An industrial development project area fund established under section 4 of this chapter shall be treated as a trust fund. Money in an industrial development project area fund is annually appropriated for purposes of the industrial development project for which it was created and may be used only for the purposes specified in the resolution and financing agreement for the industrial development project. Money in the industrial development project area fund at the end of a state fiscal year does not revert to the state general fund. However, unencumbered money remaining in an industrial development project area fund upon payment of all obligations for which the fund was created revert to the state general fund.

**Sec. 7.** The department of state revenue may adopt rules under IC 4-22-2 and prescribe forms to carry out its responsibilities under this chapter, including the establishment of requirements concerning the filing of informational returns necessary to identify tax receipts that are to be deposited in an industrial development project area fund.

**SECTION 5.** [EFFECTIVE JULY 1, 2003] (a) The department of state revenue may adopt rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out its responsibilities under IC 4-4-31, as added by this act. A rule adopted under this SECTION expires on the latest of the following:

(1) The date specified by the department of state revenue in a

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- 1 rule.  
2 (2) The date the department of state revenue adopts a  
3 temporary or permanent rule to replace another rule adopted  
4 under this SECTION.  
5 (3) July 1, 2005.  
6 (b) This SECTION expires July 2, 2005.

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SENATE MOTION

Mr. President: I move that Senator Hershman be added as second author and Senator Ford be added as coauthor of Senate Bill 328.

SKILLMAN

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SENATE MOTION

Mr. President: I move that Senators Jackman, Dembowski and Broden be added as coauthors of Senate Bill 328.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 328, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 17, delete "five (5)" and insert "**two (2)**".

Page 2, line 2, delete "employment" and insert "**unemployment**".

Page 2, line 2, delete ";" and insert "**by at least two percent (2%);**".

Page 2, line 5, delete "employment" and insert "**unemployment**".

Page 2, delete lines 9 through 29.

Page 2, line 40, after "2." insert "**(a)**".

Page 3, line 15, after "." begin a new paragraph and insert:

**"(b) A resolution adopted under this section may not apply to an industrial development project that will result in the loss of employment in any part of Indiana.**

**(c)".**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Finance.

(Reference is to SB 328 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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